

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 2:08-cr-057-MEF
	)	(WO)
DOUGLAS EUGENE MARTIN	)	

**ORDER**

On July 1, 2008, the defendant filed a Motion to Continue Trial (Doc. #36). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). See *United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that the grand jury returned a superseding indictment against the defendant. Because of these new charges, and the complexity of the issues involved, it is impractical and impossible for defendant to be prepared for trial on July 28, 2008. Counsel for the government does not oppose a continuance. Consequently, the court concludes that

a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on July 1, 2008 is GRANTED;
2. That the trial of this case set for July 28, 2008 is continued generally. The court will enter an order setting a trial date.

DONE this the 8th day of July, 2008.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE